

State of California

Franchise Tax Board-Legislative Services Bureau
PO Box 1468
Sacramento, CA 95812-1468

Telephone: (916)845-4326
ATSS: 468-4326
FAX: (916)845-5472

Legislative Change No.

00-9

Bill Number: SB 1647

Author: O'Connell Chapter Number: 00-113

Laws Affecting Franchise Tax Board:

Public Resources Code Sections 37002, 37006, 37013,
and 37022, Revenue and Taxation Code Sections
17039.1, 17053.30, 23036.1, 23630

Date Filed with the Secretary of the State: July 10, 2000

SUBJECT: Natural Heritage Preservation Tax Credit Act of 2000

Senate Bill No. 1647 (O'Connell), as enacted on July 10, 2000, made the following changes to California law:

Division 28 (commencing with Section 37000) is added to the Public Resources Code.

Section 37002 is added to the Public Resources Code.

This section defines terms used in the Natural Heritage Preservation Tax Credit Act of 2000, including:

?? "donee" as 1) a department to which a donor has applied to donate qualified property; 2) a local government that has filed a joint application with a donor requesting approval of a donation of property to that local government; or 3) a designated nonprofit organization;

?? "donor" as a property owner who donates or submits an application to donate property pursuant to this program; and

?? "property" as any real property, and any perpetual interest therein, including land, conservation easements, land containing water rights, and water rights.

Section 37006 is added to the Public Resources Code.

This section specifies that with the approval of the Wildlife Conservation Board, a donor may contribute qualified property to a donee and receive a tax credit under Revenue and Taxation Code Sections 17053.30 or 23630 (the Natural Heritage Preservation Tax Credit).

Section 37013 is added to the Public Resources Code.

This section requires the Wildlife Conservation Board to provide the Joint Legislative Budget Committee and the Franchise Tax Board (FTB) with a list of donors, in the form and manner agreed upon by the FTB. The list shall contain the donor names, taxpayer identification numbers, including taxpayer identification

Bureau Director

Johnnie Lou Rosas

Date

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numbers of each partner or shareholder, a description of the donated property, and the total amount of the tax credit approved for each donation.

Section 37022 is added to the Public Resources Code.

This section specifies that no more than \$100 million dollars in Natural Heritage Preservation tax credits may be awarded. The tax credits may be awarded in fiscal years 2000/2001, 2001/2002, 2002/2003, 2003/2004 and 2004/2005. Without further statutory authorization, no Natural Heritage Preservation tax credits may be awarded subsequent to the fiscal year of 2004/2005.

Sections 17039.1 and 23036.1 are added to the Revenue and Taxation Code.

These sections specify that the National Heritage Preservation tax credit may reduce regular tax below tentative minimum tax.

Sections 17053.30 and 23630 are added to the Revenue and Taxation Code.

These sections allow donors of a qualified contribution of property a tax credit equal to 55% of the fair market value (FMV) of the qualified contribution that has been approved for acceptance by the Wildlife Conservation Board.

These sections specify that in the case of any pass-through entity (e.g., partnership, S corporation or limited liability company treated as a partnership for tax purposes), the FMV of the qualified contribution would be passed through to the partners or shareholders of the pass-through entity in accordance with their interest in the entity as of the date of the qualified contribution.

Any excess credit may be carried forward for eight years, until the credit amount is exhausted.

This credit would be in lieu of any other state credit or deduction that the taxpayer would otherwise be allowed with respect to the property or interest therein that is contributed.

As an urgency statute, this act takes effect immediately and specifies it applies to a qualified contribution made on or after January 1, 2000, and before December 31, 2005.

This act will not require any reports by the department to the Legislature.